HON'BLE SRI JUSTICE S.V.BHATT

Writ Petition No. 21275 of 2006

Date: 03.06.2014

Between:

Rachakonda Tirupathi

…Petitioner

And

The Mandal Revenue Officer,
Karimnagar and 2 others.

…Respondents

HON'BLE SRI JUSTICE S.V.BHATT

Writ Petition No. 21275 of 2006

O R D E R:

The present writ petition is filed assailing order No.B/1580/2006-17 dated 23.09.2006 of the 1st respondent directing resumption of small extent of Acs.1.00 cents of land in Sy.No.439/0 of Chintakunta Village, Karimnagar Mandal as illegal, arbitrary and contrary to the Board Standing Orders r/w Executive Instructions issued by the Government from time to time.

Briefly stated, the undisputed facts of the case are that through assignment No.A3/16244/31, the 1st respondent assigned petition land originally in favour of father of the petitioner. Upon his death, petitioner succeeded thereto and since then, he claims to be in possession of the petition land and doing agriculture or related activity. While matters stood thus, the 1st respondent issued notice

dated 29.04.2006 calling upon the petitioner to explain why the assigned land shall not be resumed since the same is required for public purpose, namely to provide houses to poor under the ongoing schemes of the Government. The petitioner submitted explanation *inter alia* bringing to the notice of the 1st respondent that the petitioner is eking out his livelihood by doing agriculture and there are other suitable Government lands to house the poor and eligible persons. Further it is replied that without paying exgratia or compensation, resumption of land is illegal. Through the impugned order, the 1st respondent held that the petition land is required for constructing houses to poor and the same is a public purpose and resumption of land is inevitable and necessary.

The present writ petition is similar to Writ Petition No.2107 of 2006/W.A.No.1251 of 2006. A Division Bench of this Court in Writ Appeal No.1251 of 2006 protected the possession of the petitioners therein and the benefit of said order was extended to the petitioner herein in Writ Appeal No.1255 of 2006. Consequently, the possession of petitioner is protected.

Heard learned counsel for the petitioner and learned Government Pleader for Revenue.

Sri S.Satyam Reddy, learned counsel appearing for the petitioner contends that the public purpose for which the 1st respondent ordered resumption does not subsist as on today, for pursuant to the directions issued by the Division Bench, the 1st respondent has identified suitable alternate land available in the village and construction of houses is taken up and completed. The very purpose for which the resumption was ordered does not exist as on today, the learned counsel prays for setting aside the impugned order.

Learned Government Pleader, on the other hand, contends that the respondent is well within his jurisdiction in resuming the land for public purpose and such action by the respondent is in accordance with the conditions of assignment and no exception can be taken to the order impugned in the writ petition.

I have perused the order impugned in the writ petition. The 1st respondent has proceeded in the matter as if he is under total obligation to exercise the option available under assignment to resume the land and provide house sites to eligible persons of the village. Except observing that the land is required for public purpose, the order impugned does not satisfy the requirement of reference to necessary circumstances and the resumption is necessary and inevitable. Even if the resumption of land is to be taken up, how the petitioner is compensated. The order is very cryptic and for the two reasons referred to above, namely that the public purpose for which the assignment was cancelled, and land resumed, does not subsist and that the order is without reasons, I set aside the same.

It is needless to observe that in the event of any further necessity, the 1st respondent shall issue notice to petitioner and to consider the explanation received from the petitioner and pass orders in accordance with law considering the relative hardship the petitioner suffers in the event of resumption of land and the amount payable by way of exgratia/compensation.

The Writ Petition is, accordingly, allowed. No order as to costs.

Consequently, miscellaneous petitions, if any, pending in the Writ Petition shall stand closed.

S.V.Bhatt,J

Date: 03.06.2014

KLP